

**BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS
AND LANDSCAPE ARCHITECTS MEETING**

MINUTES

The Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on September 7, 2006, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present:

Architects

John S. Clark, Jr.
J. Everette Fauber, III
Kenneth A. Schwartz

Professional Engineers

Nico De León
Stanley C. Harris, Sr.
Wiley V. Johnson, III

Land Surveyors

John R. McAden
Nancy E. McIntyre
W. R. Stephenson, Jr.

Interior Designers

Lorri B. Finn
Cameron C. Stiles

Landscape Architects

Vaughn B. Rinner

Board member William H. Spell was not present for the meeting.

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director
David Ashe, Chief Deputy
Karen W. O'Neal, Deputy Director of Licensing and Regulation Division (LRD)
Mark N. Courtney, Executive Director
Sharon Sweet, Examinations Director
Marian H. Brooks, Board Administrator
Ilona LaPaglia, Legal Assistant
Michelle Gowen, Administrative Assistant

No representative from the Attorney General's Office was present at the meeting.

Ms. Rinner, Chair, called the meeting to order at 9:04 a.m.

Call to Order

Mr. Harris moved to approve the agenda. Mr. McAden seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

Approval of Agenda

Mr. Courtney introduced the newly appointed member of the Interior Designers Section, Ms. Lorri B. Finn, and welcomed her to the Board. Mr. Stephenson moved to approve the minutes as amended for the following meetings:

**Introduction of New
Board Member
Approval of Minutes**

- June 15, 2005, Informal Fact-Finding Conference (LS);
- June 12, 2006, Informal Fact-Finding Conference (PE);
- June 14, 2006, Informal Fact-Finding Conference (PE);
- June 15, 2006, APELSCIDLA Board Meeting;
- June 21, 2006, Informal Fact-Finding Conference (Arch);
- July 26, 2006, Architects Section Meeting;
- August 2, 2006, Professional Engineers Section Meeting;
- August 8, 2006, Informal Fact-Finding Conference (PE); and
- August 9, 2006, Land Surveyors Section Meeting.

Ms. Stiles seconded the motion which was unanimously approved by members: Clark, De Léon, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

Public Comment Period – Duncan Abernathy, VSAIA, was present to address the Board in regards to mandatory continuing education for architects, professional engineers, and land surveyors. Mr. Abernathy noted to the Board that VSAIA, VSPE, the Virginia Chapter of ACEC, and VAS would like to assist the Board with the preparation of these regulations as the Board moves forward.

**Public Comment
Period**

Kendal Walus, Assistant State Location and Design Engineer, VDOT, was present as Mr. Kerley could not attend the meeting. Mr. Walus noted that it was VDOT's opinion that the *Code* was amended to exempt all state and local government officials from signing and sealing engineering work until July 1, 2010. Mr. Walus noted that VDOT has taken a proactive approach to meeting the mandate of having professionals in responsible charge position by July 1, 2010, and also noted the fact that VDOT has designated 271 positions as responsible charge positions and 196 of those position have been filled. Mr. Walus discussed the administrative concerns VDOT has on having some employees signing and sealing plans, and other employees not, and there could be possible confusion of both internal and external customers and the compounding of internal morale issues between senior non-professional designers and younger professionals. Mr. Walus stated that, in VDOT's opinion, this would create a burden on the Department and that was not the General Assembly's intent when this law was written.

Ms. Foroughi was present to address the Board and thank them for their time in reviewing her application. Ms. Foroughi stated that she agrees with the recommendation of Mr. De León, and if approved, would begin taking the exam in 2007.

**File Number 2006-
04353, Angela
Foroughi**

Regarding **File Number 2006-04353, Angela Foroughi**, the Board Members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, the Summary of the Informal Fact-Finding Conference and Ms. Foroughi's presentation. Mr.

Harris moved to accept the recommendation of the presiding Board member and accept the experience submitted by Ms. Foroughi with her application as acceptable professional engineer experience and approve her application for examination. Mr. Johnson seconded the motion which was unanimously approved by members: Clark, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles. As the presiding Board member, Mr. De León was not present during the discussion or vote.

After reviewing the application and discussion, Mr. Schwartz moved to accept the Agreement for Registration as seen and agreed to by Robert A. M. Stern Architects, LLC. Mr. Fauber seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Robert A. M. Stern
Architects, LLC,
Agreement for
Registration**

After reviewing the application and discussion, Ms. Stiles moved to accept the Agreement for Registration as seen and agreed to by Allan Associates Architects, PLLC. Mr. McAden seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Allan Associates
Architects, PLLC
Agreement for
Registration**

Regarding **File Number 2005-02633, Alvah Breitweiser**, the Board members record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits and the Summary of the Informal Fact-Finding Conference. Mr. Fauber moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's 2002 regulations: 18 VAC 10-20-750 (Count 1); 18 VAC 10-20-790.A.2 (Count 2); and 18 VAC 10-20-740.B (Count 3). Mr. Harris seconded the motion which was unanimously approved by members: De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**File Number 2005-
02633, Alvah
Breitweiser**

After Ms. LaPaglia indicated that there have been no prior disciplinary action against Mr. Breitweiser, Mr. Fauber moved to accept the Summary of the Informal Fact-Finding Conference and impose the following sanctions:

\$500.00 for the violation contained in Count 1 and \$1,000.00 for the violation contained in Count 3 for a total monetary penalty of \$1,500.00. In addition, revocation of Mr. Breitweiser's architect license for the violations of Counts 2 and 3.

Ms. McIntyre seconded the motion which was unanimously approved by members: De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

As the presiding Board member, Mr. Clark was not present during the discussion or vote.

Mr. Schwartz disclosed that he knew two partners that were involved in this matter. Mr. Schwartz had no prior knowledge of this matter before receiving

**File Number 2006-
01873, Samuel Y.**

the agenda materials and believes he can render a fair and impartial decision in this matter.

Harris

Regarding **File Number 2006-01873, Samuel Y. Harris**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Harris. Mr. Fauber moved to accept the Consent Order which cites the following violations of the Board 2002 regulations: 18 VAC 10-20-750 (Count 1) and 18 VAC 10-20-790.A.2 (Count 2). For these violations Mr. Harris agrees to the revocation of his architects license as well as \$150.00 in Board costs. Mr. Harris seconded the motion which was unanimously approved by members: De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles. As the reviewing Board member Mr. Clark was not present during the discussion or vote.

After reviewing the application and discussion, Mr. Harris moved to accept the Agreement for Registration as seen and agreed to by EMC Engineering, Inc. Ms. McIntyre seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

EMC Engineering, Inc., Agreement for Registration

Regarding **File Number 2006-00737, Charles Eugene Fullerton**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits and the Summary of the Informal Fact-Finding Conference. Mr. Clark moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's 2002 regulations: 18 VAC 10-20-710.A (Count 1); 18 VAC 10-20-740.C (Count 2); and 18 VAC 10-20-795 (Count 3). Ms. Stiles seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

File Number 2006-00737, Charles Eugene Fullerton

After Ms. LaPaglia indicated that there have been no prior disciplinary action against Mr. Fullerton, Mr. Harris moved to accept the Summary of the Informal Fact-Finding Conference and impose the following sanctions:

\$2,500.00 for the violation contained in Count 1 and \$500.00 for the violation contained in Count 3 for a total monetary penalty of \$3,000.00. In addition, revocation of Mr. Fullerton's license for the violations of Counts 1 and 2.

Mr. McAden seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

Regarding **File Number 2006-04100, Michael Lee Flynn**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Flynn.

File Number 2006-04100, Michael Lee

Ms. McIntyre moved to accept the Consent Order as amended which cites the following violations of the Board's 2002 regulations: 18 VAC 10-20-370.C.4 (Count 1), 18 VAC 10-20-370.D.2.c (1st violation of Count 2); 18 VAC 10-20-370.D.2.k (2nd violation of Count 2); and 18 VAC 10-~~20~~-370.D.2.m (3rd violation of Count 2). For these violations, Mr. Flynn agrees to the following monetary penalties: \$250.00 for the violation contained in Count 1, \$100.00 for the 1st violation contained in Count 2, and \$100.00 for the 2nd violation contained in Count 2, as well as \$150.00 in Board costs for a total monetary penalty of \$600.00. Mr. McAden seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, and Stiles. As the reviewing Board member Mr. Stephenson was not present during the discussion or vote.

Flynn

Mr. Johnson disclosed that Mr. Perkins is a former employee of Hurt & Proffitt, Inc., the firm where Mr. Johnson is currently employed. Mr. Johnson believes he can make a fair and impartial decision in this matter.

File Number 2006-01836, Woodrow Wesley Perkins

Regarding **File Number 2006-01836, Woodrow Wesley Perkins**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Perkins. Ms. Stiles moved to accept the Consent Order which cites the following violations of the Board's 2002 violations: 18 VAC 10-20-370.D.1 (Count 1) and 18 VAC 10-20-370.D.2.c (Count 2). For these violations Mr. Perkins agrees to the following monetary penalties: \$250.00 for the violation contained in Count 1 and \$100.00 for the violation contained in Count 2 as well as \$150.00 in Board costs, for a total monetary penalty of \$500.00. Mr. Clark seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, and Stiles. As the reviewing Board member Mr. Stephenson was not present during the discussion or vote.

Regarding **File Number 2005-03624, Archie Dodson**, the Board members reviewed the Consent Order as seen and agreed by Mr. Dodson. Mr. Stephenson moved to accept the Consent Order which cites a violation of 18 VAC 10-20-790.A.3 of the Board's 2002 regulations. For this violation Mr. Dodson agrees to a \$500.00 fine and \$350.00 in Board costs for a total monetary penalty of \$850.00. Mr. Harris seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McIntyre, Rinner, Schwartz, Stephenson, and Stiles. As the reviewing Board member Mr. McAden was not present during the discussion or vote.

File Number 2005-03624, Archie Dodson

After discussion, Mr. Fauber moved to authorize staff to file a Notice of Intended Regulatory Action for changes to the Board's regulations for continuing education requirements for architects, professional engineers, and land surveyors per House Bill 1054. Mr. Harris seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles. After further discussion, the Board agreed by consensus that a

Adoption of NOIRA for Continuing Education Regulations

committee should be and the composition of the committee would be discussed during their next series of meetings and brought back for action at the next full Board meeting in December of 2006.

After discussion, Mr. Clark moved to authorize staff to file a Notice of Intended Regulatory Action for changes to the Board's regulations to allow applicants to take the ARE prior to completion of the NCARB IDP. Mr. Fauber seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Adoption of NOIRA
to Allow Applicants
to Take the ARE
Prior to Completion
of NCARB IDP**

Mr. Courtney reviewed a letter received from Mr. Kerley at VDOT and the recommendation prepared by Department staff. After review and discussion, Mr. Johnson moved to accept the recommendation prepared by staff which determines that the provisions of § 54.1-402.1 exempt individuals from having to be licensed under certain circumstances; however, the statute does not exempt those individuals who are licensed as a professional engineer, architect, or land surveyor and in a responsible charge position from complying with the Board's regulations. This interpretation is further reinforced by the provisions of § 54.1-401, which exempt certain actions of regulants of the Board, under certain circumstances, from the Board's purview. Section 54.1-401 of the Code of Virginia exempts the "Practice of professional engineering, architecture or land surveying solely as an employee of the United States" but does not contain a corresponding exemption for employees of various state agencies and political subdivisions.

**Discussion of Sealing
of Professional Work
by State/Local
Government
Employees**

Finally, the General Assembly removed the exemption previously contained in § 54.1-401 -- to exempt the work of employees of various state agencies and political subdivisions who were licensed as a professional engineer, architect, or land surveyor and in a responsible charge position from complying with the Board's regulations -- in its 1992 session (see Chapter 780 of the 1992 Acts of Assembly), at the same time the provisions of §54.1-402.1 were added to the Code.

Mr. Stephenson seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

Mr. Courtney reviewed a letter from Charles F. Dunlap of Walter L. Phillips, Incorporated, inquiring about the use of professional seal and signature for zoning land use applications pursuant to 18 VAC 10-20-760. Mr. Fauber made a motion that staff prepare a response to the letter and present it to the Sections and the Board for review and discussion at its next series of meetings. Mr. Stephenson seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Discussion of
Professional Seal &
Signature Pursuant
to 18 VAC 10-20-760
for Zoning Land Use
Applications**

The Board took a break from 10:13 a.m. to 10:23 a.m.

Break

Sharon Sweet, Examinations Director, discussed a Request for Proposal (RFP) that will be published soon in order to establish a contract with a vendor for the administration of the professional engineer, land surveying, and landscape architecture examinations. As part of the RFP process, a panel will be formed to review all contract offers that are submitted to decide with whom to enter negotiations, and then select the company which will be awarded the contract. After discussion, Mr. Clark made a motion to select Mr. Harris and Mr. Stephenson to serve on the panel and be given the authority to make the necessary decisions relevant to this matter on behalf of the Board. Mr. Harris seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Discussion of RFP
Process for
Examination
Administration
Services**

The Board members reviewed the agreement between NCEES and the Department in regard to the missing examination booklets. After review, Mr. Schwartz made a motion to ratify the agreement. Mr. McAden seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

**Ratification of
Settlement
Agreement**

Mr. Harris moved to approve the following meeting dates for 2007:

**Set 2007 Meeting
Dates**

ARCHITECTS

Wednesday, January 31, 2007
Thursday, May 3, 2007
Thursday, July 26, 2007
Thursday, October 25, 2007

PROFESSIONAL ENGINEERS

Thursday, February 8, 2007
Thursday, May 10, 2007
Thursday, August 9, 2007
Thursday, October 11, 2007

LAND SURVEYORS

Thursday, February 15, 2007
Thursday, May 24, 2007
Thursday, August 16, 2007
Thursday, November 8, 2007

LANDSCAPE ARCHITECTS

Tuesday, February 13, 2007
Tuesday, May 15, 2007
Tuesday, August 14, 2007
Tuesday, November 6, 2007

INTERIOR DESIGNERS

Tuesday, February 6, 2007
Thursday, May 22, 2007
Thursday, August 21, 2007
Thursday, November 13, 2007

APELSCIDLA BOARD

Thursday, March 15, 2007
Thursday, June 14, 2007
Thursday, September 13, 2007
Thursday, December 13, 2007

Ms. Stiles seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

Mr. O'Brien of ASCE made a presentation to the Board in regards to the NCEES change to the Model Law for the BS + 30 as the education standard.

**Presentation of
NCEES Change to
Model Law for BS +
30 by James J.
O'Brien, ASCE**

The following members of the audience were present to note their support to the change to the Board: Louis Guy, PE with 47 years of experience; Bob Gibson, PE with 45 years of experience; John Schuler, ASCE and Senior PE with VDOT, 15 years experience; and Carrie Angelloti. Marvin Hilton was present at the request of Jeff Russell to show his support for the proposed change.

Ms. Stiles moved to adopt the following resolution for service for Carole R. Renmark:

Other Business

Carole R. Renmark

WHEREAS, **Carole R. Renmark** did faithfully and diligently serve as a member of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects from 2002 to 2006;

WHEREAS, Carole R. Renmark did devote generously of her time, talent and leadership to the Board;

WHEREAS, Carole R. Renmark did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects this seventh day of September 2006, that Carole R. Renmark be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

Ms. McIntyre seconded the motion which was unanimously approved by members: Clark, De León, Fauber, Finn, Harris, Johnson, McAden, McIntyre, Rinner, Schwartz, Stephenson, and Stiles.

Ms. Rinner dismissed herself from the remainder of the meeting at 11:20 a.m. and the Board took a break from 11:20 a.m. to 11:30 a.m. The position of Chair was turned over to Mr. Harris.

**Break and Departure
of Ms. Rinner**

The Board members were provided with information regarding DHCD's plans for adoption of the 2008 VUSBC for informational purposes.

**Review of DHCD
Plans for Adoption of
the 2008 VUSBC**

Ms. O'Neal provided the Board members with training on the roles and responsibilities of members of the Board.

**Training on Roles
and Responsibility of
Board Members**

The Board members were provided with a comprehensive report of enforcement activity since the last Board meeting.

**Comprehensive
Report of CID
Activity**

The Board members were provided with financial statements from July 2006 for informational purposes.

**Review of Board
Financial Statements**

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 12:23 p.m.

Adjourn

Vaughn B. Rinner, Chair

Jay W. DeBoer, Secretary